

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EARNELL BASIL YATES,)	
)	Civil Action No. 07 - 1189
Petitioner,)	
)	
v.)	Judge Terrence F. McVerry /
)	Magistrate Judge Lisa Pupo Lenihan
FRANKLIN J. TENNIS, THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA, and THE DISTRICT)	
ATTORNEY OF THE COUNTY OF)	
GREENE,)	
)	
Respondents.)	

MEMORANDUM ORDER

The above captioned Petition was received by the Clerk of Court on January 8, 2007, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 19), filed on July 10, 2009, recommended that the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (Doc. No. 4) be denied and that the certificate of appealability be denied. Service was made on the Petitioner at S.C.I. Rockview, Box A, Route 26, Bellefonte, PA 16823-0820, and on counsel of record for the Respondents. The parties were informed that in accordance with Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. Petitioner filed Objections to the Report and Recommendation (Doc. No. 21) on July 28, 2009. No reply to the objections

have been filed. After review of the pleadings and the documents in the case, together with the report and recommendation and the objections thereto, the following order is entered:

AND NOW, this 7th day of August, 2009;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (Doc. No. 4) is **DENIED**.

IT IS FURTHER ORDERED that the certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 11) of Magistrate Judge Lenihan, dated July 10, 2009, is adopted as the opinion of the court.

s/ Terrence F. McVerry
Judge Terrence F. McVerry
United States District Judge

cc: Lisa Pupo Lenihan
U.S. Magistrate Judge

Ernell Basil Yates
DC - 1673
S.C.I. Rockview
Box A
Bellefonte, PA 16823

Counsel of record.